



## Legal Alert: Employers Should be Prepared for an Outbreak of Swine Flu

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Most employers probably are aware that incidents of swine flu have been reported in numerous states, including California, Texas, Ohio, Kansas, and New York. Although the World Health Organization has indicated that it does not have enough information regarding the strain of influenza to raise the global pandemic level alert, the Department of Homeland Security has declared a public health emergency in the United States. This allows funds to be released to support the public health response. Homeland security officials reportedly are responding aggressively with the expectation that the outbreak will spread.

According to the Centers for Disease Control and Prevention (CDC), as of April 27, there were 7 confirmed human cases of swine flu in California, 28 cases in New York City, 2 each in Kansas and Texas and 1 in Ohio. The CDC reports that the viruses contain a unique combination of gene segments that have not been reported previously among swine or human influenza viruses in the United States or elsewhere. However, according to U.S. investigators, virtually all of the cases confirmed in this country have been mild. As of April 28, there are reports of swine flu outbreaks in Spain, New Zealand, and Israel. Many of the outbreaks are linked to people who have traveled to Mexico.

While officials of the World Health Organization and the CDC have not yet declared a pandemic, this is a good time for employers to remind employees of basic contamination avoidance steps and to assess their policies and level of preparedness should a pandemic develop.

### ***Basic Contamination Avoidance Steps***

Employers should emphasize basic standards of good hygiene, such as:

1. Frequent hand washing;
2. Use of hand sanitizing products;
3. Covering the nose and mouth when coughing or sneezing;
4. Staying home when ill, especially those who have a fever or respiratory infection.

Other steps employers can take to reinforce good hygiene practices include:

1. Preparing or re-circulating hygiene policies and information regarding the

symptoms and modes of transmission of influenza.

2. Ensuring sufficient supplies of sanitizing products (i.e. hand sanitizers, sanitizing wipes, soap in restrooms, etc.) are available for all employees. Consider making other items, such as disposable gloves, masks, and goggles, available where appropriate.
3. Ensuring medical kits are adequately supplied and refreshed.
4. Ensuring facilities are properly ventilated and that ventilation systems are working properly throughout the workplace.
5. Keeping the workplace clean. This includes carpets, restrooms, eating areas, doorknobs, and switches, as well as each workstation.

### ***Assess How Your Company Policies would be Affected by a Pandemic***

1. Assess your company's sick leave policy – to what extent are employees able to carry over or share/bank accrued sick leave? What are the implications of such a policy under wage payment and benefits laws?
2. What is your company policy on medical leave? Have you considered developing leave policies to be used in a pandemic situation that encourage employees to remain at home if they are sick or are caring for sick dependants? Such policies should be clearly worded to apply only in situations that implicate the use of your emergency management plan, to ensure they do not affect your day-to-day policies. Limit the contours of your plan to prevent it from working against you.
3. Do you have a telecommuting policy or at least an emergency telecommuting policy? Have you addressed any possible security concerns (through technology and through agreements creating binding legal obligations) if more employees are forced to work remotely?
4. Do your company policies address issues that may arise in a possible pandemic, such as: quarantine policies, social distancing policies, and increased sanitation policies to ensure a healthy work place?

### ***Other Steps Your Business Can Take to Prepare for a Pandemic***

1. Form a pandemic team/disaster preparedness team. This team should establish an emergency communications plan that identifies key contacts (with backups), a chain of communications (including suppliers and customers), and processes for tracking and communicating business and employee status.
2. Identify whether your company has an existing business continuity plan applicable to a pandemic. Such a plan should address long-term absenteeism rates, whether pivotal business functions can be maintained with minimal staff, and what portion(s) of your business functions can be performed remotely.
3. Identify the company's essential functions and who performs them. Develop backup plans to ensure the availability of employees and material essential to the continuation of operations. Cross-train your employees on essential jobs.

4. Discuss pandemic policies with insurance carriers.
5. Ensure effective employer/employee communication regarding a pandemic flu.
6. Develop a recovery plan.

More information regarding swine flu is available on the CDC's web site, <http://www.cdc.gov>. If you have any questions regarding this issue or need assistance in ensuring your company is prepared for the contingency of a flu pandemic, please contact the Ford & Harrison attorney with whom you usually work.